

## UNITED STATES DISTRICT COURT

## DISTRICT OF NEVADA

FRANK M. PECK, )  
Plaintiff, ) 3:09-cv-0381-LRH-VPC  
vs. ) **ORDER**  
HOWARD SKOLNICK, et al., )  
Defendants. )

---

Plaintiff Frank M. Peck, has a Second Amended Complaint alleging violations of his constitutional rights under 42 U.S.C. § 1983. The complaint is subject to the provisions of 28 U.S.C. § 1915. The Second Amended Complaint sets forth the allegations previously approved by the court in its screening order of August 3, 2010. In that order plaintiff was advised his complaint could proceed as to Court II, which alleged an Eighth Amendment violation. The Second Amended Complaint is adequate to proceed and shall be served upon the defendants.

**IT IS THEREFORE ORDERED** as follows:

1. The Clerk shall electronically serve a copy of this order, including the attached **Notice of Intent to Proceed with Mediation form**, along with a copy of plaintiff's second amended complaint (docket #19), on the Office of the Attorney General of the State of Nevada, to the attention of Pamela Sharp.

2. The Attorney General's Office shall advise the Court within **twenty-one (21) days** of the date of entry of this order whether it can accept service of process for the named defendants. As to any of the named defendants for which the Attorney General's Office cannot accept service, the Office shall file, *under seal*, the last known address(es) of those defendant(s).

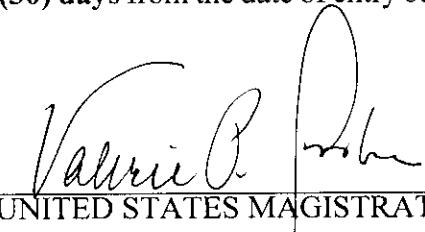
26

1           3. If service cannot be accepted for any of the named defendant(s), plaintiff shall file a  
2 motion identifying the unserved defendant(s), requesting issuance of a summons, and specifying a full  
3 name and address for said defendant(s). Plaintiff is reminded that, pursuant to Rule 4(m) of the Federal  
4 Rules of Civil Procedure, service must be accomplished within one hundred twenty (120) days of the  
5 date the complaint was filed.

6           4. If the Attorney General accepts service of process for any named defendant(s), such  
7 defendant(s) shall file and serve an answer or other response to the complaint within **thirty (30) days**  
8 following the date of the early inmate mediation. If the court declines to mediate this case, an answer  
9 or other response shall be due within **thirty (30) days** following the order declining mediation.

10          5. The parties **SHALL DETACH, COMPLETE AND FILE** the attached Notice of  
11 Intent to Proceed with Mediation form on or before **thirty (30) days** from the date of entry of this order.

12          DATED: *December 6, 2010*

  
Valerie R. Johnson  
UNITED STATES MAGISTRATE JUDGE

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

1  
2 Name \_\_\_\_\_

3 Prison Number (if applicable) \_\_\_\_\_

4 Address \_\_\_\_\_  
5 \_\_\_\_\_  
6 \_\_\_\_\_  
7 \_\_\_\_\_

8 UNITED STATES DISTRICT COURT  
9 DISTRICT OF NEVADA

10 \_\_\_\_\_ Plaintiff, \_\_\_\_\_ )  
11 v. \_\_\_\_\_ ) Case No. \_\_\_\_\_  
12 \_\_\_\_\_ )  
13 \_\_\_\_\_ )  
14 Defendants. \_\_\_\_\_ )  
15 \_\_\_\_\_ )  
16 \_\_\_\_\_ )  
17 \_\_\_\_\_ )  
18 \_\_\_\_\_ )  
19 \_\_\_\_\_ )  
20 \_\_\_\_\_ )  
21 \_\_\_\_\_ )  
22 \_\_\_\_\_ )  
23 \_\_\_\_\_ )  
24 \_\_\_\_\_ )  
25 \_\_\_\_\_ )  
26 \_\_\_\_\_ )

NOTICE OF INTENT TO  
PROCEED WITH MEDIATION

16 This case may be referred to the District of Nevada's early inmate mediation program. The  
17 purpose of this notice is to assess the suitability of this case for mediation. Mediation is a process by  
18 which the parties meet with an impartial court-appointed mediator in an effort to bring about an  
19 expedient resolution that is satisfactory to all parties.

- 20 1. Do you wish to proceed to early mediation in this case? \_\_\_\_\_ Yes \_\_\_\_\_ No  
21 2. If no, please state the reason(s) you do not wish to proceed with mediation? \_\_\_\_\_  
22 \_\_\_\_\_  
23 \_\_\_\_\_

- 24 3. List any and all cases, including the case number, that plaintiff has filed in federal or state court  
25 in the last five years and the nature of each case. (Attach additional pages if needed).  
26 \_\_\_\_\_

1 \_\_\_\_\_  
2 \_\_\_\_\_  
3 4. List any and all cases, including the case number, that are currently pending or any pending  
grievances concerning issues or claims raised in this case. (Attach additional pages if needed).  
4 \_\_\_\_\_  
5 \_\_\_\_\_  
6 \_\_\_\_\_  
7 \_\_\_\_\_

8 5. Are there any other comments you would like to express to the court about whether this case is  
suitable for mediation. You may include a brief statement as to why you believe this case is suitable for  
9 mediation. (Attach additional pages if needed).  
10 \_\_\_\_\_  
11 \_\_\_\_\_  
12 \_\_\_\_\_  
13 \_\_\_\_\_

14 This form shall be filed with the Clerk of the Court on or before thirty (30) days from the date  
of entry of this order.  
15

16 Counsel for defendants: By signing this form you are certifying to the court that you have  
17 consulted with a representative of the Nevada Department of Corrections concerning participation in  
mediation.

18 Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2010.  
19  
20 \_\_\_\_\_ Signature  
21  
22 \_\_\_\_\_ Name of person who prepared or  
23 helped prepare this document  
24  
25  
26